



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LABOUR WELFARE DEPARTMENT ::: DISPUR ::: GUWAHATI-6

NOTIFICATION

The 28th March, 2022

No.GLR(RC)74/2020/12.- The following draft of the Assam Occupational Safety, Health and Working Conditions Assam Rules, 2022, which the Governor of Assam proposes to make in exercise of the powers conferred under sections 133 and 135 of the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020) is hereby published as required under section 137 of the said Code, for information of all persons likely to be affected thereby and notice is hereby given that the said draft rules shall be taken into consideration after the expiry of a period of 45 days from the date of publication of this notification in the Official Gazette.

Any objections or suggestions, which may be received from any individual or organizations with respect to the said draft rules before the expiry of the period specified above shall be considered by the Governor of Assam.

Objections or suggestions, if any, may be sent to the Commissioner to the Government of Assam, Labour Welfare Department, Janata Bhawan, Dispur, Guwahati-06 and email to labour.assam@gmail.com.

DRAFT RULES**CHAPTER I****Preliminary**

Short title,
extent and
commencement

1. (1) These rules may be called the Assam Occupational Safety, Health and Working Conditions Assam Rules, 2022.
- (2) They shall extend to whole of the State of Assam.
- (3) They shall come into force on the date of their publication in the Official Gazette.

Definitions

2. In these rules, unless the context otherwise requires,-
 - (a) “Authority” means an Authority designated by Government of Assam under sub-section (1) of section 119 of the Code;
 - (b) “Appellate Authority” means the authority designated/notified by the Government of Assam under sub-section (6) of section 119 of the Code;
 - (c) “Appellate Officer” means the Officer as notified by the Government of Assam under sub-section (1) of section 4 of the Code;
 - (d) “Board” means the Assam Occupational, Safety and Health Advisory Board constituted under section 17 of the Code;
 - (e) “Code” means the Occupational Safety, Health and Working Conditions Code, 2020 (No. 37 of 2020);
 - (f) “Compounding Officer” means an officer notified by the Government of Assam under section 114 of the Code;
 - (g) “Electronically” means-
 - (i) legible colored scanned document or Form of original one or digitally signed soft copy to the official email address of concerned office or to the State Government web portal as the case may be, if it is to be sent, or submitted or necessary details are filled and requisite documents are uploaded in State Government web portal, as required in it; or
 - (ii) efficient and authentic pay roll software so that the requisite information can be seen in a systematic manner in case of maintaining attendance register, muster roll, leave register, overtime register or wage register ; or
 - (iii) Downloading from the official web portal of State Government by the applicant or by the government official for registration or licensing by a registering officer ; or

- (iv) Any other method or means which State Government may specify in general or special order if it becomes expedient;
- (h) “Enquiry Officer” means Officer appointed by the Government of Assam for holding enquiry under section 111 of the Code;
- (i) “Form” means a form annexed to these rules;
- (j) “Income from the sources” under Explanation to clause (x) of sub-section (1) of section 2 means a member of the family having such monthly income from all sources or any other income as may be notified from time to time by the State Government and shall not be included as dependent for the purpose of these rules;
- (k) “maintained” means maintained in an efficient state, in efficient working order and in good repair;
- (l) “Manager” means the person responsible to the occupier for the working of the factory for the purposes of the Code;
- (m) “Medical Officer” means a Medical practitioner appointed as per sub-section (1) of section 42 of the Code by the State Government;
- (n) “Quarter” means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October;
- (o) “Registering Officer” means the registering officer appointed by the State Government for the purpose of these rule;
- (p) “Schedule” means a Schedule appended to these rules;
- (q) “section” means the section of the Code;
- (r) “Social Security Fund” means Assam Social Security Fund established under Social Security Code, 2020;
- (s) “State Government” means Government of Assam;
- (t) “Substance or quantity of substance” under clause (zb) of sub-section (1) of section 2 of the Code means such hazardous or any chemicals which are described under **Schedule 1, Schedule 2 and Schedule 3** of the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 or any other such substances which the State Government or Central Government may notify from time to time;
- (u) The words and expressions used in these rules and not defined herein but defined in the Code shall have the same meaning respectively as assigned to them in the Code.

CHAPTER II**Registration**

Manner and form of filing an application for registration fee and late fee under sub-section (1) and (2) of section 3

3. (1) The employer seeking registration for an establishment under section 3 of the Code shall apply electronically in **Form-I** on the official portal of Labour Department, State Government within sixty days from the date of commencement of these rules. After the expiry of the said period, a late fee of 25% in excess to the fees ordinarily payable for registration shall be payable. The Form shall be signed digitally or in any other manner as may be required on the portal. The applicant shall be responsible for veracity of all information submitted in the application.
- (2) The Permanent Account Number (PAN) of the applicant or the establishment allotted under Income Tax Act, 1961 or any other unique number allotted to the establishment under any other Act for the time being in force or any other particulars furnished in the Form, may be verified online.
- (3) The following fees for registration of the establishment shall be deposited in the Head of Account 0230-Labour and Employment along with the Application in **Form-I** electronically on the Official portal of Labour Department, the State Government for registration of establishments.
- (i) Fees for Registration of Contractor, Inter State Migrant, Motor Transport, Beedi Cigar, Building and Other Construction Workers and Factories employing 10 to 19 workers shall be provided herein:-

Factories employing 10 to 19 workers

(a)	No registration fee shall be charged for the establishments already registered under Central Labour Laws for updation of information	Nil
(b)	Establishments employing 10 to 19 workers	Rs. 500.00
(c)	Establishments employing 20 to 49 workers	Rs. 1500.00
(d)	Establishments employing 50 to 99 workers	Rs. 3000.00
(e)	Establishments Employing 100 to 199 workers	Rs. 4000.00
(f)	Establishments Employing 200 to 499 workers	Rs. 5000.00
(g)	Establishments Employing 400 and above workers	Rs. 10000.00

(ii) Fees for Plantation workers shall be :-

a)	Plantation upto 120 Hectares	Rs 10,000.00
b)	Plantation within 121 to 200 Hectares	Rs. 15,000.00
c)	Plantation within 201 Hectares and above	Rs. 20,000.00

- (4) For registration of factories as defined under section 2(w) of the Code the applicant shall pay fees as prescribed under **Schedule I, II and III** of these rules :

Provided that Plantations and Motor Transport Undertakings registering under rule 3 shall be renewable every ten years. The manner of application and fees of renewal shall be as prescribed by the government from time to time under rule 3 of the Code.

- (5) The certificate of registration shall be non-transferable and a copy of the certificate of registration shall be displayed in the premises of the establishment at the conspicuous place in hard copy or electronically.
- (6) The Registering Officer appointed under the Code may direct (electronically) the employer who fails to comply with the requirements as specified in sub-rule (1) above, to do so within the time stated therein and such employer shall, thereupon comply with the instruction issued by the officer in this behalf.
- (7) The employer in respect of an establishment already registered under any other State labour law for the time being in force shall, update the registration particulars on the Government of Assam Portal, within six months from the date on which the Code comes into force.
- (8) Any registration obtained by providing wrong information shall be liable to be cancelled provided that establishment has been given an opportunity to show cause, electronically or by registered post, as to why the certificate of registration should not be cancelled.
- (9) The employer shall quote the Registration Number on all documents prepared or completed by him in connection with the Code or the Rules or the Regulations or the Scheme, as the case may be, and in all correspondence with the office concerned.

Form and manner of sending notice of commencement or cessation of operation under sub-section (1) of section 5

4. (1) The employer of every establishment shall, submit notice within thirty days of the commencement or cessation of operation, of any industry, trade or business to the Registering Officer in **Form-II**, electronically or otherwise.
- (2) The notice of cessation of operation shall be enclosed with a certificate that the payment of all dues to the workers employed in the establishment have been made and the premises are kept free from storage of hazardous chemicals and substances.

Chapter-III

Duties of Employer and Employee

Annual Health Examination of employees or establishments under clause (c) of sub-section (1) of section 6

5. Every employer of factory, plantation, employer engaging contractual workers, motor transport workers, interstate migrant workers and building or other construction workers shall arrange to conduct free of cost medical examination annually i.e. within 120 days from the commencement of every calendar year for every worker who has completed 45 years of age. However in case of hazardous establishment workers who have completed 40 years of age will be eligible. The medical examination shall be conducted by a qualified medical practitioner as per proforma annexed in the **Form-III**. The Medical Certificate shall be submitted by the qualified medical practitioner to the concerned employer and employee.

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| Form of letter of appointment to employee under clause (f) of sub-section (1) of section 6 | 6. | <p>(1) No employee shall be employed in any establishment unless he has been issued a letter of appointment in the prescribed format as provided in Form-IV:
 Provided that, an employee who has not been issued an appointment letter containing the required particulars, shall be issued an appointment letter within three months from the commencement of these rule.</p> <p>(2) The employer shall also ensure the systematic allotment of a distinct Labour Identification Number (LIN) for every employee and shall issue an identity card bearing such employee code and other necessary particulars within one month of his appointment:
 Provided that such letter and Identity cards may be issued to all the employees within three months of coming into force of this rule.</p> <p>(3) If the Identity card of an employee is damaged or lost, the employer shall issue a new Identity card to the employee within a month. He/she may charge Rupees 10 (Ten) from the employee for issuing new one but upto rupees 50 (Fifty) for any subsequent issuance within a calendar year subject to provisions of section 22 of Code on Wages, 2019.</p> |
| Manner and time of notice to Authority and nature of dangerous occurrences under sub-section (1) of section 10 and section 11 | 7. | <p>(1) Where at any place in an establishment which is factory, plantation, employer engaging contractual workers, motor transport workers, inter-state migrant workers and building or other construction, an accident occurs which results in the death of any person, the employer or occupier or manager of the establishment shall forthwith send a notice thereof in Form-V electronically and inform by telephone to the Inspector-cum- Facilitator and Chief Inspector-cum Facilitator and District Magistrate or Sub-divisional Officer, the officer-in-charge of the nearest police station; and the family members /kin of the injured or deceased person.</p> <p>(2) Where at any place in an establishment which is factory, plantation, employer engaging contractual workers, motor transport workers, inter-state migrant workers and building or other construction, an accident occurs which results in bodily injury by reason of which the person injured is prevented from working for a period of forty eight hours or more immediately following the accident, the employer or occupier or manager of the establishment shall forthwith send a notice in Form-V within twelve hours after the completion of forty eight hours, electronically to the Inspector-cum-Facilitator.</p> <p>(3) Wherein an establishment there is any dangerous occurrence as specified in the SCHEDULE-IV annexed hereto, whether causing any bodily injury or disability or not, a notice in Form-V shall within 12(Twelve) hours be sent to,-</p> <ul style="list-style-type: none"> (a) The Chief Inspector-cum-Facilitator; (b) District Magistrate or Sub-divisional Officer; (c) The Assistant Labour Commissioner having jurisdiction; (d) The Inspector-cum-Facilitator having jurisdiction; (e) The Officer-in-charge of the nearest police station: |

Provided that if in the case of an accident or dangerous occurrence, death occurs to any person injured by such accident or dangerous occurrence after the notices and reports referred to in the foregoing sub-rules have been sent, the employer or occupier or manager of the establishment shall forthwith send a notice thereof by telephone and electronically to the authorities and persons mentioned in sub-rules (1) and (2) and also have this information confirmed in writing within 12 hours of the death or dangerous occurrence as the case may be:

Provided further that, if the period of disability from working for 48 hours or more referred to in sub-rule (2) does not occur immediately following the accident, or the dangerous occurrence, but later, or occurs in more than one spell, the report referred to shall be sent to the Inspector-cum-Facilitator in **FORM-V** within 24 Hours following the hours when the actual total period of disability resulting from the accident or the dangerous occurrence becomes 48 hours.

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| <p>Notice of certain diseases under sub-section (1) and form and manner of report and time under sub-section (2) of section 12</p> | <p>8. (1) A notice in FORM-VI shall be sent forthwith electronically, to the Inspector-Cum Facilitator or Chief Inspector-cum-Facilitator, by the employer or occupier or manager of an establishment in which there occurs any disease as notified under Third Schedule of the Code.</p> <p>(2) If any qualified medical practitioner attends a person who is or has been employed in an establishment and who is or is believed by the qualified medical practitioner that he/she is suffering from any disease specified in the Schedule III of the Code, the qualified medical practitioner shall without delay send a report in writing to the office of the Chief Inspector-cum- Facilitator stating,-</p> <ul style="list-style-type: none"> (a) the name and full postal address of the patient, (b) the disease from which he believes the patient is suffering, and (c) the name and address of the establishment in which the patient is or was last employed. |
| <p>Manner of making report by employee and other duties under clause (d) and (g) of section 13</p> | <p>9. (1) If an employee comes to know of any unsafe or unhealthy condition in the establishment, he/she shall report to the employer or health and safety representative or safety officer or agent or manager, as soon as practicable, electronically or in writing or telephonically.</p> <p>(2) Every employee shall in general, wear or keep with him the identity card provided by the employer during his working hours in the establishment. The employee shall report to the manager, in writing if his identity card is lost or damaged. No employee shall misuse the card.</p> |
| <p>Manner of sending report of action taken under sub-section (3) of section 14</p> | <p>10. On receipt of information from the employee relating to the existence of an imminent danger to their safety and health, the employer shall take immediate remedial action in this regard. The employer, whether satisfied or not, shall send a report forthwith of such actions taken, to the Inspector-cum-Facilitator electronically or by registered/speed post or telephonically.</p> |

CHAPTER IV

Occupational Safety and Health

Constitution, procedure and other matters relating to State Advisory Board under sub-section (2) of section 17

11. (1) Under section 17 of the Code the Assam Occupational, Safety and Health Advisory Board shall be constituted to advise the State Government on such matters as may be referred to it by the Government. The Board shall consist of the following members, namely:-

(a)	Hon'ble Minister, Labour Welfare, Assam	Chairperson
(b)	Senior most Secretary, Labour Welfare Department	Member-Secretary
(c)	Chairman, Assam Pollution Control Board	Member (ex-officio)
(d)	Secretary, Health and family Welfare Department	Member (ex-officio)
(e)	Secretary, Industries Department.	Member (ex-officio)
(f)	Director of fire services, Assam Government	Member (ex-officio)
(g)	Representative of Assam State Disaster Management Authority	Member (ex-officio)
(h)	Labour Commissioner, Assam	Member (ex-officio)
(i)	Chief Inspector cum Facilitator for Factories	Member (ex-officio)
(j)	Administrative Medical Officer, ESI	Member (ex-officio)
(k)	Representative of The Assam Building and Other Constructions Workers Welfare Board.	Member
(l)	Chief Inspector-cum- Facilitator for other establishments not mentioned above for which the State Government is the appropriate Government.	Member
(m)	Two Representatives of Employers to be nominated by the State Government (Tea Industry, Bricks, Stone crushing and such other Industries)	Members
(n)	Two Representatives of Employees to be nominated by the State Government	Members
(o)	One representative from reputed research institutions or similar other discipline to be nominated by the State Government	Member

(2) **Term of Office.-**

- (i) Non-Official members of the Board shall hold office for the period of three year from the date of their nomination:

Provided that the State Government may at any time before the expiry of period of term remove any non- official member from his office.

- (ii) A non-official member may, at any time by a letter addressed to the State Government, resign from his office and his seat shall be deemed vacant from the date of acceptance of his resignation.

- (iii) If any member of the Board, not being an ex-officio member, fails to attend three consecutive meetings of the Board, without obtaining the leave sanctioned by the Chairperson of such Board for such absence, he/she shall cease to be a member of Board:

Provided that the State Government may, if satisfied that such member was prevented on sufficient ground causes from attending three consecutive meetings, direct that such cessation shall not take place and on such direction being made, such member shall continue to be a member of the Board.

- (iii) The State Government may remove any member of the Board, if in its opinion such member has ceased to represent the interest which he purports to represent on such Board:

Provided that no such member shall be removed unless a reasonable opportunity is given to him of making a representation against the proposed action under this rule.

(3) **Disqualification for membership.**—A person shall be disqualified for being a member of the Board—

- (a) if he is of unsound mind and stands so declared by the competent authority;
- (b) if he is an undischarged insolvent ; or
- (c) if he has been convicted for an offence, having a penalty of imprisonment of three months or more.

(4) **Disposal of the Business.-**

- (1) The Board shall meet at least once in one year or as often as necessary to discharge the function as specified in sub-section (1) of section 17 of the Code at the time and place fixed by the Chairperson.
- (2) The meeting of the Board shall be called by the Member Secretary with the prior approval of Chairperson.
- (3) The Chairperson shall preside over every meeting of the Board in which he is present and in his absence the meeting shall be

presided by the Deputy Chairman.

- (4) Ordinarily seven days notice shall be given to the members of proposed meeting :

Provided that in case of any matter of urgent importance, a notice of lesser period shall be deemed sufficient.

- (5) No business shall be transacted at any meeting unless at least two third members are present :

Provided that if at any meeting less than two third members are present, the Chairperson may adjourn the meeting to another date informing members present and giving notice to other members that he proposes to dispose of the business at the adjourned meeting whether there is prescribed quorum or not, and thereupon it shall be lawful to dispose the business at the adjourned meeting irrespective of number of members attending the meeting.

- (6) The travelling allowance of an official member shall be governed by the rules applicable to him for journey performed by him on official duties and shall be paid by the authority paying his salary.

- (7) The non-official members of the Board shall be paid travelling allowance for attending the meeting of the Board at such places as per the instructions issued by Finance Department of the State Government from time to time. The amount so paid to the non-official members shall be debited from the official account of the Member-Secretary of the Board.

- (8) Every decision taken at the meeting of the Board shall be recorded in a Minutes Book, which shall be kept for permanent record.

(5) Function of State Board. –

- (1) The Board shall be responsible for securing the health, safety, welfare of employees in factories and establishments.

- (2) Without prejudice to the generality of the powers conferred in the foregoing clause the Board shall be responsible for –

(a) minimizing accidents, gas leakage, fire, etc in the factories. For this purpose the Board may prescribe the procedure and frequency of inspection, mock drills and enquiry of all serious accidents.

(b) the Board shall review all such accidents in any establishments where five or more persons have died.

- (c) preparation and submission of the annual report to the State Government on the activities of the Board;
- (d) proper maintenance of accounts;
- (e) collection of contributions to the fund and other charges;
- (f) appoint Committees for disposal of the business of the Board or for advice in various matters pertaining to the objects of the Board;
- (g) hear and deal with the complaints;
- (h) secure the fulfillment of any contract and agreement entered into;
- (i) authorize any person to enter into negotiations and execute contract and to rescind and vary all such contracts;
- (j) open account with the Bank and authorize officers of the Board to operate on them as well as draw, accept, endorse and execute cheques, bills of exchange etc. on behalf of the Board;
- (k) lay down rules for affixation and safe custody of common seal of the Board;
- (l) invest the fund money and deposits within Nationalized Banks, Government securities or in institutions wholly owned by the Government;
- (m) delegate from time to time all or any of its powers to the Secretary or any other officer of the Board as may be necessary for the efficient administration of the affairs of the Board.

Constitution of Technical Committee and Site Appraisal Committee under sub-section (3) of section 17

12. (1) The State Government may constitute as many technical committees on the recommendation of State Advisory Board to assist the State Government or State Advisory Board in discharge of their functions. The technical committee shall include not less than two officers from Directorate of Factories. The term, function, procedures and allowances of these Committees shall be as determined by the State Government.
- For the purpose of Factories, the State Government shall constitute a State Site Appraisal Committee for the purposes of advising and to consider applications for grant of permission for the initial location of an establishment which is a factory involving a hazardous process or for the expansion of such establishments (factory) consisting of the following members and may reconstitute the Committee as and when necessary:-

- (a) the Chief Inspector cum Facilitator for Factories of the State who shall be its Chairman;
- (b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (d) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (e) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (f) a representative of the Department of Environment in the State;
- (g) a representative of the Meteorological Department of the Government of India;
- (h) an expert in the field of occupational health; and
- (i) a representative of the Town Planning Department of the State Government, and not more than five other members may be co-opted by the State Government who shall be—
 - (i) a scientist having specialized knowledge of the hazardous process which will be involved in the factory,
 - (ii) a representative of the local authority within whose jurisdiction the factory is to be established, and
 - (iii) not more than three other persons as deemed fit by the State Government as members of the Committee such as—
 - (a) a representative of the Fire Service Organisation of the State Government;
 - (b) a representative of the State Department of Industries;
 - (c) a representative of the Directorate General Factory Advice Service and Labour Institutes, Mumbai.

- (2) The State Government may appoint a senior official of the Factories Inspectorate, preferably with qualification in Chemical Engineering to be the Secretary of the Committee;
- (3) No member; unless required to do so by a Court of Law, shall disclose otherwise than in, connection with the purposes of the Act, at any time any information relating to manufacturing or Commercial business or any working process which may come to his knowledge during his tenure as a Member on this Committee.

Safety
Committee
and manner of
choosing the
representative
of workers
under section
22(1)

13. (1) In every establishment where Safety Committee is required by general or special order of the Government a Committee shall be constituted by the following members, namely :—
- (a) A senior official, who by his position in the organization can contribute effectively to the functioning of the Committee, shall be the Chairman;
 - (b) A Safety Officer and Medical Officer wherever available and the Safety Officer in such a case shall be the Secretary of the Committee ;and
 - (c) A representative each from the production, maintenance and purchase departments.
- (2) The workers' representatives on the Safety Committee referred to in sub-rule (1) shall be chosen by the workers.
- (3) The minutes of the meeting of the Safety Committee referred to in sub-rule (1) shall be recorded:
- Provided that there shall be adequate representation of the women workers in the committee. Safety Committee shall have the right to be adequately and suitably informed of—
- (a) potential safety and health hazards to which the workers may be exposed at workplace;
 - (b) data on accidents as well as data resulting from surveillance of the working environment and of the health of workers exposed to hazardous substances in factory or plantation and any other establishment where workers are exposed to hazardous substances:

Provided that the Committee undertakes to use the data on a confidential basis and solely to provide guidance and advice on measures to improve the working environment and the health and safety of the workers. The owner, employer, occupier, agent or manager shall, within a period of 15 days from the date of receipt of the recommendations of the Safety Committee shall take action to implement the recommendations.

- (4) Function and duties of the Safety Committee shall be,—
- (a) assisting and cooperating with the management in achieving the aims and objectives outlined in the 'Safety and Health Policy' of the establishment;
 - (b) dealing with all matters concerning health, safety and environment and to arrive at practicable solutions to problems encountered;
 - (c) creating safety awareness amongst all workers;
 - (d) undertaking educational, training and promotional activities;
 - (e) discussing reports on safety, environmental and occupational health surveys, safety audits, risk assessment, emergency and disaster management plans and implementation of the recommendations made in the reports;
 - (f) looking into the matters likely to cause danger to the safety and health of the workers and suggest corrective measures ;
 - (g) reviewing the implementation of the recommendations made by it;
 - (h) carrying out health and safety surveys and identifying causes of accidents.
- (5) Where owing to the size of the establishment, or any other reason, the functions referred to in sub-rule (4) above, cannot be effectively carried out by the Safety Committee, it may establish Sub-Committees as may be required to assist it.

Qualifications,
duties and
number of
Safety Officers
under sub-
section (2) of
section 22

14. The qualification of Safety Officer-

- (1) A person shall not be eligible for appointment as Safety Officer unless he-
- (a) possesses a degree from a recognized University or its equivalent in any branch of Engineering or Technology with two years of experience in a position of supervision of management in a factory in either the production or the maintenance or the safety department; or
- a degree from a recognized University in Physics and Chemistry with five years experience in a position of supervision or management in a factory in either the production or the maintenance or the Safety department; or
- Diploma in any branch of engineering or technology recognized by the State Government with five years experience in a position of supervision of management in a factory in either the production or the maintenance or the Safety Department;

- (b) possesses a degree or diploma or certificate in industrial safety recognized by the State Government;
- (c) has thorough knowledge of Assamese;
- (d) has qualified at a viva voce test conducted by a Board constituted by the Labour Welfare Department, Government of Assam, for the purpose;
- (e) can speak Hindi; and
- (f) is not less than 23 years of age:

Provided that the Chief Inspector-cum-Facilitator, may exempt from the requirement of clause (b) of this rule for any person on the following conditions:-

- (i) who has not less than five years of experience in department of the Central or a State Government which deals with the administration of the Code; or
- (ii) who has not less than five years of experience on a full-time basis in training or education or consultancy or research in the field of accident prevention in any industry or in any institution:

Provided further that the Chief Inspector-cum-Facilitator, Assam may exempt from all or any of the prescribed qualifications any person who has been working as a Safety Officer in any factory for a period of not less than three years on the date of commencement of these rules and who, in his opinion, possesses the requisite practical experience to serve as a Safety Officer:

Provided further that the Chief Inspector-cum-Facilitator may relax subject to such conditions as may be specified, the qualification prescribed in clause (a) of sub-rule (3) herein, in case of persons already in service on the date of commencement of these rules as Safety Officers in factories.

- (2)
 - (i) The occupier of a factory shall notify the appointment of a Safety Officer within seven days from the date of appointment, to the Chief Inspector-cum-Facilitator, giving full details of qualifications, age, terms and conditions of service.
 - (ii) Any vacancy in the post of a Safety Officer caused by the death, termination of service or resignation of a Safety Officer or by any other reason shall be filled up within three months of the occurrence of the vacancy.

(3) Safety Officer shall perform following duties namely:-

- (i) The duties of a Safety Officer shall be to advise and assist the factory management in the fulfillment of obligations statutory or otherwise concerning prevention of personal injuries and maintaining a safe working environment.
- (ii) Without prejudice to the generality of the provisions of clause (i), of this sub-rule such duties may include:
 - (a) to advise the concerned departments in planning and organizing the measures necessary for the effective control of personal injuries and industrial diseases ;
 - (b) to advise on safety aspects of all jobs and to carry out detailed job safety analysis of selected jobs;
 - (c) to carry out safety inspections in order to identify unsafe plant or equipment and hazardous conditions of work, and carry out safety observation to identify unsafe work practices and procedures followed by workers, and to suggest measures to be adopted for remedying defects found ;
 - (d) to advise and assist on matters relating to carrying out safety inspections and Safety observations by concerned Department ;
 - (e) to design and conduct, either independently or in collaboration with the training department, suitable training and educational programmes for all levels in the organizations and specifically for the supervisory staff for the prevention of personal injuries and industrial diseases;
 - (f) to check and evaluate the effectiveness of the action taken or proposed to be taken to prevent personal injuries and industrial diseases ;
 - (g) to advise the purchasing and store departments on the availability and the specifications of any new machinery, plant, appliance or equipment including personal protective equipment, to be installed or used in the factory in order to ensure high standard of safety and protection of health of the employees ;
 - (h) to advise concerned departments on matters relating to reporting and investigation of causes of industrial accidents and diseases ;

- (i) to investigate into the causes and circumstances of every fatal, serious and selected accident and dangerous occurrence, compile necessary reports and tender advice to prevent their recurrence ;
 - (j) to investigate into the cases of every industrial disease ;
 - (k) to promote setting up of safety committees and act as adviser and catalyst to such committees ;
 - (l) to organize, in collaboration with the concerned departments, campaigns, competitions, contests and other activities which will develop and maintain the interest of the workers in establishing and maintaining safe conditions of work and procedures ;
 - (m) to advise on the maintenance of records as are necessary relating to accidents, dangerous occurrences and industrial diseases and present information in appropriate form for the use of management and others in assessing safety performance ;
 - (n) to maintain liaison with other departments, in the factory including medical and training departments, and with the Directorate of Factories, Fire Services, local authorities and other organizations engaged in the promotion of industrial safety.
- (iii) If the Chief Inspector-cum-Facilitator, is of opinion that Safety Officer is being required or allowed by the occupier of a factory to do work which is inconsistent with or detrimental to the performance of the duties prescribed under clause (ii) of sub-rule (5) of this rule above, he/she may by an order, for reasons to be recorded in writing, direct that such Safety Officer shall not be required or allowed to do such work.

CHAPTER V

Hours of Work and Annual Leave with Wages

- | | | |
|---|-----|--|
| Conditions for exemption from weekly holidays under sub-section (2) of section 26 | 15. | Adult male workers engaged in factories specified in column 3 of the Schedule V annexed hereto on the work specified in column 4 of the said Schedule shall be exempted from the provisions of sub-section (1) of section 26 specified in column 5 subject to the conditions, if any, specified in column 6 of the said Schedule V . |
| The total number of overtime under third proviso of section 27 | 16. | (1) Where in an establishment, a worker works for more than eight hours in any day or for more than forty-eight hours in any week, as the case may be, he/she shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages and shall be paid at the end of each wage period. |

- (2) In calculating overtime on any day, a fraction of an hour between 15 to 30 minutes shall be counted as 30 minutes and in case of more than 30 minutes it shall be rounded and shall be counted as an hour on actual basis.
- (3) In calculating the wages or earnings in the case of a worker paid by the month, the daily wages shall be $\frac{1}{26}$ th of his monthly wages and in the case of any other worker it shall be the daily wages or earnings as the case may be.
- (4) The spread over for the workers shall not exceed twelve hours in any one day under the following works and circumstances in factories and building and other construction, namely :-
 - (i) urgent repairs ;
 - (ii) work in the nature of preparatory or complimentary work ;
 - (iii) work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest ;
 - (iv) work which for technical reasons must be carried on continuously ;
 - (v) engaged in making or supplying articles of prime necessity which must be made or supplied everyday ;
 - (vi) engaged in a process which cannot be carried on except during fixed seasons ;
 - (vii) engaged in a process which cannot be carried on except at times dependent on the irregular action of natural forces ;
 - (viii) engaged in an engine rooms or boiler houses or in attending to power plant or transmission machinery ;
 - (ix) engaged in process on account of the break-down of machinery;
 - (x) engaged in the loading or unloading of railway wagons or lorries or trucks ;
 - (xi) exceptional press of work and engaged in any work, which is notified by the Central Government/Government of Assam in the Official Gazette as a work of national importance :

Provided that no worker shall be allowed to work overtime exceeding one hundred twenty-five hours in any quarter of a year.

Explanations:

For the purposes of this rule “urgent repair” shall mean -

- (i) Repairs to any part of the machinery, plant or structure of a factory which are of such a nature that delay in their execution shall involve danger to human life safety or the stoppage of the manufacturing process.
- (ii) Breakdown repairs to the prime movers, transmission or other essential plant of other factories, collieries, railways, dockyard harbours, tramways, motor transport,

gas, electric generation and transmission, pumping or other similar essential or public utility services carried out in general engineering works and foundries and which are necessary to enable such concerns to maintain their main manufacturing process, production or service during normal working hours.

- (iii) Repairs to deep sea ships and repairs to commercial air-craft done in a factory which are essential to enable such ships or air-craft leave port at proper time or continue their normal operations lot sea or air-worthy condition, as the case may be, and break down repairs to Inland Water Transport Vessels which are essential to enable such vessels to continue their normal operations.
- (iv) Repairs in connection with a change of motive power, e.g. from steam to electricity vice-versa, which such work cannot possibly be done without stoppage of the normal manufacturing process.
- (v) Periodical cleaning is not included in the terms “examining or “repairing”.
- (vi) “Maintenance” for the purpose of this rule means normal upkeep of power plant, transmission machinery, electric motors and their switch gears and cables.

Restriction on double employment in factory under section 30

17. No worker shall be required or allowed to work in a factory if he has already been working in any other such similar establishment within the preceding twelve hours as there are no circumstances in existence for double employment in any factory establishments in the state as on date.

Display of notice under sub-section (2) of section 31

18. The notice referred to in sub-section (2) of section 31 of the Code shall be displayed at conspicuous places on a notice Board or electronic board and maintained in **Form-VII** and copy of such notice shall be sent to Inspector-cum-Facilitator electronically or otherwise or by registered post.

CHAPTER VI

Maintenance of Registers, Records and Returns

Form of Register and particulars of workers under clause (a) of section 33

19. (1) Every employer shall maintain register of workers, registrar of attendance work and registrar of wages and leave registrar, overtime, fine, deduction, for damage or loss and such other register as may be determined by the State Government by order in **Form-VIII** electronically or otherwise and shall be kept available at an office or the nearest convenient building within the precincts of the establishment.

- (2) The registers of accident and dangerous occurrences required by sub-clause (v) of clause (a) of section 33 of the Code shall be maintained in **Form-IX**.
- (3) The owner, agent or manager of every establishment shall maintain in respect of every employee thereof a record of leave with wages electronically or manually in **Form-X**.
- (4) in case of manual registers and other records, be legibly entered in ink in English and Hindi/Assamese or the language understood by a majority of the persons employed.
- (5) be preserved in original for a period of one calendar year after the date of the last report or entry :
 Provided that when the original record is lost or destroyed before the expiry of one year period, true copies thereof, if available, shall be preserved for the prescribed period.
- (6) The record as prescribed under sub-rule (1) and sub-rule (2) above shall be produced, electronically or by registered post, on demand before the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator or any person authorized in that behalf by the State Government.

Displaying of
notices under
clause (b) of
section 33 (b)

20. Every employer shall cause to display at the conspicuous place of the workplace of the establishment under his control, notice showing the name and address of the establishment, hours of work, wage period, date of payment of such wages, details of accident and dangerous occurrence in the establishment for the last five years, name and address of the Inspector-cum-Facilitator having jurisdiction to such establishment and date of payment of unpaid wages to such workers in English, Hindi, Assamese or in any other official language of Assam as the case may be.

Manner of
filing return
under clause (d)
section 33

21. Every employer of an establishment shall send annually a return relating to such establishment in duplicate in **Form- XI** to the Inspector-cum-Facilitator having jurisdiction so as to reach him not later than 1st February following the end of each calendar year with a copy to Chief Inspector cum Facilitator, of the State.

Qualification
and experience
of Chief
Inspector-cum-
Facilitator
under sub-
section (5) of
section 34

22. The State Government may by order determine the qualification and experience for the Chief Inspector cum Facilitator for the purposes of such establishments or class of establishments.

CHAPTER VII

Inspector-cum-Facilitator and other Authority

The manner of entering in any premises of establishment under clause (x) of sub-section (1) of section 35

23. (1) An Inspector-cum-Facilitator shall take samples or substances in an establishment as per the inspection scheme mandated under Official Portal of Labour Welfare Department after informing the employer of the establishment, taken in the manner hereinafter providing a sufficient sample of any substance used or intended to be used in the establishment such use being,—
- (a) in the belief of the Inspector-cum-Facilitator in contravention of any of the provisions of this Code or the rules made thereunder; or
 - (b) in the opinion of the Inspector-cum-Facilitator likely to cause bodily injury to, or injury to the health of employee in the establishment.
- (2) Where the Inspector-cum-Facilitator takes a sample under sub-rule (1), he/she shall in the presence of the person informed under that sub-section unless such person willfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.
- (3) The person informed as aforesaid shall, if the Inspector-cum-Facilitator so requires, provide the appliance for dividing, sealing and marking the sample taken under this section.
- (4) The Inspector-cum-Facilitator shall—
- (a) forthwith give one portion of the sample to the person informed under sub-rule (1);
 - (b) forthwith send the second portion to a Government Analyst for analysis and report thereon;
 - (c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.
- (5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceeding instituted in respect of the substance.

Powers and duties of Inspector cum facilitator under clause (xiv) of sub-section (1) of section 35

24. (1) Inspector-cum-Facilitator shall, after every inspection, as may be deemed necessary, issue prohibition in case of factories or improvement notice in all other establishments including factories in the **Form-XII** pointing out the non-compliance of provisions of safety, health and working conditions under the Code, and rules and regulations framed thereunder, to the employer or occupier or owner or manager or their agent.

- (2) An Inspector-cum-Facilitator shall, at each inspection, ascertain to what extent any shortcomings notified at a previous inspection have been rectified and the notices previously issued have been complied with. His findings and any shortcomings which may come to light during the inspection, together with any order passed by him under the Code or the regulations made thereunder shall be recorded and maintained.

In case of subsequent non-compliance of the order passed by the Inspector cum Facilitator under sub-section (1) of section 35 or any provisions of the Code, the Inspector cum Facilitator shall file a complaint with the appropriate authority as provided under section 102, 103 and 104 of the Code as applicable.

Specialized
Qualifications
and experience,
duties and
responsibility of
experts
empanelled
under
section 37

25. (1) **Purpose of third Party Audit and Certification:-**
The Auditors shall assess the status of implementation of the provisions of the Code in the establishments eligible for this purpose and make recommendations for improvement for any shortfall detected during the audit as it may deem necessary.
- (2) **Eligibility of the Audit firm—**
- (i) The Firm should be registered body corporate in India under appropriate legal framework, such as Companies Act or LLP Act ;
 - (ii) The Firm should be registered in Labour Welfare Department;
 - (iii) The Firm should have experience and authorization to undertake and evaluate labour regulatory compliance;
 - (iv) The Firm should have Labour Law Auditor and Technical Auditor on company pay roll.
- (3) **Eligibility, qualifications and experience of the Auditors:**
- (i) **Labour Law Auditor—**
 - (a) Shall be having a minimum of 7 years of experience under Labour Law ; or Should be having a minimum of 7 years of experience as a legal practitioner under Labour Law ; or Should have served as Labour Officer or Inspector of Factories or above for 7 years ;
 - (b) Shall not currently be a part-time/full-time employee in any unit/establishment in the State or elsewhere in the country ;
 - (c) Shall not be of an age more than 65 years;
 - (d) Shall be medically fit to carry out inspection procedure;

(ii) **Technical Auditor—**

Shall have one year full time Diploma in industrial safety recognized by the Board of Technical Education or All India Council of Technical Education or recognized university or Central labour Institute or any of the Regional labour Institutes and either of the following qualifications,—

- (a) Degree in any branch of Engineering preferably in Chemical, Mechanical, Electrical or Production Engineering and having five years' experience in manufacturing, maintenance, design, project or safety department in the supervisory or above capacity in factories ; or
- (b) Diploma in branch of Chemical, Mechanical, Electrical or Production Branch Engineering and having seven years experience in manufacturing, maintenance, design, project or safety department in the supervisory or above capacity in factories; or
- (c) Degree of Bachelor of Science with Physics and/or Chemistry and having ten years experience in manufacturing or safety.

(4) **Establishments to be audited:**

- (a) Micro, small and medium enterprises
- (b) Factories under self-certification scheme as introduced vide Govt. Notification No. GLR.71/2016/C/Pt/44, Dated 16-03-2017 pertaining to Inspection Scheme.
- (c) Factories declared under section 81(1) of the Code.
- (d) Any other establishments that Government may deem fit.

(5) **Manner of Audit:**

- (a) Audit shall primarily be based on a comprehensive checklist brought out for the purpose of the audit along with application of relevant intuition of the persons undertaking the audit.
- (b) Audit shall be conducted annually in all establishments that are eligible for the audit based on computer generated random selection of the establishments.
- (c) Any stakeholder including employer, workers, supervisors and others of the establishment being audited are legally bound to appear before the auditor conducting the audit to meet any query raised by him in relation to the subject of the audit.
- (d) Audit shall be web based.

(6) Duties of Auditors:

- (a) Unless it is necessary for the purpose of the audit the audit should be undertaken as far as possible during the working hours of the establishments.
- (b) The auditor shall give prior intimation to the employer of the establishment regarding the commencement of the audit.
- (c) Auditor shall submit his report to the employer and the Inspector-cum-Facilitator after the completion of the audit forthwith.
- (d) He/she shall perform the audit in such a manner that every aspect of the subject of the audit is brought out in a systematic way with the application of his intuition and experience.

Alternative employment under sub-clause (d) of clause (A) of sub-section (1) of section 38

26. The occupier of the factory may take necessary steps for providing employment to the workers affected by the order of prohibition issued by Inspector-cum-Facilitator under sub-clause (d) of clause (A) of sub-section (1) of section 38 of the Code and as far as practicable provide alternate employment to the workers so affected. Where it may not be possible for the occupier to provide such employment, he/she shall be responsible for making payment of salary/wages to the affected workers during the period for which the prohibition order is in operation.

Qualification of medical practitioner under sub-section (1) of section 42

27. The medical practitioner under section (1) of section 42 of the Code shall be a Medical Officer who possesses any recognized medical qualification as defined in the National Medical Commission Act, 2019 (30 of 2019) and who is enrolled on a Indian Medical Register as defined in clause (e) and on a State Medical Register as defined in clause (l) of sections 35, 36, 37 and 40 of the said Act.

Duties of Medical Officer under clause (a), (b) and (c) of sub-section (2) of section 42

28. (1) The Medical Officer shall perform the examination and certification of the workers in a factory or in such other establishments engaged in dangerous occupation and processes specified in **Schedule-VI** of these rules.
- (2) The Medical Officer shall perform the examination and certification of the workers in a factory or in such other establishments where the cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments and inform the occupier, owner, Chief Inspector-cum-Facilitator and the State Government for study and remedial measures as may be required in this behalf.
- (3) The Medical Officer shall perform the examination and certification of an adolescent worker for the purpose of ascertaining his fitness of employment in a factory, motor transport undertaking or in any other establishments under the Code.

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- (4) On receipt of a reference under clause (c) of sub-section (2) of section 42 of the Code, the Medical Officer shall, after giving prior notice regarding date, time and place for medical examination shall record the result of his examination in the Health Register in **FORM XXIV-A**, which shall be kept by the Factory Manager and produce to the Medical Officer at each visit. The Officer upon examining the person sent for such examination, prepare the age and fitness certificate and deliver the same to the occupier, manager, owner of the establishment concerned after retaining a copy.
- (5) The Medical Officer may seek opinion of specialists like radiologist, dentist and orthopaedic surgeon as the case may be, for the purpose of determination of age.
- (6) Medical Officer shall carry out such examination and furnish such report as State Government may direct-
- (a) for examination and certification of workers in an establishment in such dangerous operations declared under section 82 of the code or processes as specified in First Schedule to the Code;
 - (b) for medical supervision of any establishment or class of establishment where cases of chronic occupational illness have occurred due to arduous nature of any process carried on or hazardous condition of work;
 - (c) in respect of any establishment or class of establishment or description of establishment in which operations involve any risk of injury to the health of any person or class of persons employed therein;
 - (d) to undertake occupational health survey for any or class of an establishment, where cases of illness have occurred or there is prevalence of diseases as prescribed in Third Schedule of the Code ;
 - (e) to assess the age and issue fitness of adolescent for employment in an establishment or class of establishment;
 - (f) and may perform any other duty as may be decided by the State Government time to time.

CHAPTER VIII**Special Provisions relating to Employment of Women**

Employment of
woman under
section 43

29. The women may be employed in all establishment with their prior consent subject to following conditions, namely:-
- (1) It shall be the duty of the employer and other responsible persons that they may prevent any act of probable sexual harassment and in case of such incident, they shall arrange for taking appropriate action,
 - (2) It shall be the duty of the employer or other responsible persons at the work places or institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, statement or prosecution of acts of sexual harassment by taking all steps required,
 - (3) All employers or persons in charge of work place or factory shall take appropriate steps to prevent sexual harassment and they shall take the following steps, namely:-
 - (i) express prohibition of sexual harassment in any form such as unwelcome sexually determined behaviour either directly or by implication or advances or contact to gain contact or demand sexual favours or make sexually coloured remarks or showing pornography or any other unwelcome physic verbal or non-verbal contact of sexual nature;
 - (ii) the rules or regulations shall be framed by the factory managements relating to conduct and discipline prohibiting sexual harassment and provide for appropriate penalties in such rules against the offenders and also introduce amendments wherever necessary which are existing in the Standing Orders;
 - (iii) provide appropriate working conditions in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work place and no women employee should have reasonable ground to believe that she is disadvantaged in connection with her employment.
 - (4) In case of any criminal case the employer shall initiate appropriate action in accordance with the penal law without delay and also ensure that victims or witnesses are not victimized or discriminated while dealing with the complaints of sexual harassment and wherever necessary, at the request of the affected workers, shift or transfer the perpetrator, if circumstances so warrant. The employer shall take appropriate disciplinary action if such conduct amounts to misconduct in employment.

- (5) The employer shall maintain a complaint redressal mechanism in the factory itself and the said mechanism should ensure time-bound treatment of complaints. Such mechanism should be at any rate to provide, when necessary, a Complaint Committee, a special counsellor or other support services including the maintenance of confidentiality.
- (6) Such Complaint Committee shall preferably be headed by a woman and not less than half of its members should be women besides a non-governmental organization's representation in the committee. Such person should be familiar with the issue relating to women and sexual harassment.
- (7) The women employees should be sensitized about their rights in particular by prominently notifying the guidelines on the subject.
- (8) Wherever there is a harassment at the instance of a third party either by an act or omission the employer and person in charge of the factory should take all steps necessary and reasonable to assist the affected person, in terms of support and preventive action.
- (9) The employer shall provide proper lighting not only inside the factory, but also surrounding of the factory and to all places where the female workers may move out of necessity in the course of such shift and it shall be mandatory to install CCTV Surveillance in all the crucial areas to ensure safety of women employees.
- (10) The employer shall see that the women workers are employed in a batch preferably not less than ten and the total of the women workers employed in a night shift shall not be less than 2/3rd of the total strength.
- (11) It is mandatory for employer to provide separate Ladies Toilets in the work place with adequate lighting and security.
- (12) Sufficient women security shall be provided during the night shift at the entry as well as exit points.
- (13) Sufficient number of work sheds shall be provided for the women workers to arrive in advance and also leave after the working hours.
- (14) Separate canteen facility shall be provided for the women employees.
- (15) Transportation facility shall be provided wherever transportation is provided by the employer or the occupier of the factory with pre-installed CCTV Surveillance and GPS System in the vehicles used for transportations of women employees.
- (16) The employer or occupier of the factory shall provide Night Creches for the Children of the women employees.

- (17) The employer shall appoint not less than two women 'wardens per night shifts who shall go round and work as Special Welfare Assistants.
- (18) The factory shall provide appropriate medical facilities and also make available at any time of urgency by providing necessary telephone connections and where more than hundred women workers are employed in a shift, a separate vehicle be kept ready to meet the emergent situation such as hospitalization, whenever there is a case of injury or incidental acts of harassment etc.
- (19) Wherever the factory provides boarding and lodging arrangements for the women workers, the same shall be kept exclusively for the women under the control of women wardens or supervisors.
- (20) During night shift not less than 1/3rd of strength of the supervisors or shift-in-charge or foreman or other supervisory staff shall be women.
- (21) There shall be not less than twelve consecutive hours of rest or gap between the last shifts and the night shift wherever a women worker is changed from day shift to night shift and so also from night shift to day shift.
- (22) The provisions of the Code and those of the Rules made thereunder with respect to the hours of work and the provisions of Code on Wages, 2020 and those of the Rules made thereunder with respect to the Payment of Equal Remuneration and all other Labour Code provisions shall be followed by the employer.
- (23) Apart from the facilities, which are permissible under the Code, an additional holiday shall be permitted for the women workers during their menstruation period, which shall be a paid holiday for the night shift.
- (24) The women workers who work in night shifts and regular shifts shall have a monthly meeting through their representatives with principal employer once in eight weeks as grievance day and the employer shall try to comply all just and reasonable grievances.
- (25) The employer shall be at liberty to employ women workers as a whole or in part during night shift, provided, the above directions be complied with.
- (26) The employer shall send a fortnightly report to the Inspector-cum-Facilitators about the details of employees engaged during night shift and shall also send express report whenever there is some untoward incident, to the Inspector-cum-Facilitator and local Police stations as well.
- (27) The area Inspector-cum-Facilitators shall strictly enforce the direction and make it a point to take note of the non-compliance in their inspection from time to time and see that the employer complies with the directions by appropriate action.

Providing
adequate
safeguards
under
section 44

30. The Government of Assam may declare by notification the class of establishments and the scheme, and standards for safeguarding of women in hazardous and dangerous processes, if required in consonance with the standards set by the Central Government.

CHAPTER IX

PART I

CONTRACT LABOUR

Conditions of
license under
clause (a) of
sub-section (3)
of section 47

31. Every application by a contractor for grant of license shall ensure that—
- (1) the hours of work shall conform to the rules made under section 25 of the code ;
 - (2) the wages shall be paid in accordance with the Code on Wages, 2020 (29 of 2020) ;
 - (3) if the contract worker of the contractor is working at the premises of the principal employer then it shall be the responsibility of the principal employer to provide the facilities or amenities such as toilet, washroom, drinking water, bathing facilities if required, changing room, first aid box, Canteen and Crèche;
 - (4) if the contract worker of the contractor is working at the premises of the principal employer then it shall be the responsibility of the principal employer to ensure the applicability of Occupational safety, health, welfare and working conditions in respect of such workers in accordance with the provisions of the Code;
 - (5) all other facilities and entitlements shall be provided by the contractor;
 - (6) in case the contractor fails to make payment of minimum wages to the contract worker, then the Labour Commissioner, Assam/Deputy Labour Commissioner/the Assistant Labour Commissioner having jurisdiction, shall cause such payment to be made to the contract workers who have not been paid out of the security deposit maintained by invoking the bank guarantee; and
 - (7) he/she shall intimate within fifteen days of the receipt of a contract work order about the details of the contract work order and in the manner as under this section.

Application for
license under
sub-section (1)
of section 48

32. (1) Every application by a contractor for the grant of a license shall be made online electronically through Official Portal of Labour Welfare Department of the State Government in **Form-XIII** to the Licensing Officer. The Licensing Officer may issue the license to the contractor in **Form-XIV** electronically immediately, if the application is

complete in all respects but not later than **fifteen (15) days** from the date of submission of complete application, failing which such license shall be deemed to have been issued and the license shall be auto generated.

- (2) Every Application for grant of license shall be accompanied by a certificate by the employer in **Form – XIV-A**:

Provided that in exceptional circumstances the State Government may, for such period, by notification, dispense with requirement of electronic registration, in respect of any class of contractors, for any part or whole of Assam, and submission of application in the form so provided, may be allowed.

- (3) Every license granted or renewed is subject to the following conditions, namely:—

- (i) the license shall be non-transferable;
- (ii) the number of workers employed as contract labour by the contractor shall not, on any day, exceed the maximum number specified in the license;
- (iii) save as provided in these rules, the fees paid for the grant, or as the case may be, for renewal of the license shall be non-refundable;
- (iv) Every contractor who has worked in the construction sector shall at the time of renewal of their license, furnish copy of the registration card, issued under the Assam Building and Other Construction Workers Welfare Board and as per provision of the Social Security Code, Assam Rules, 2021 for the workers engaged by him/her.

The procedure for obtaining licence under sub-section (2) of section 48

33. (1) Before a license is issued under any rule of these rules, bank guarantee for an amount calculated at the rate of Rupees 1000 for each of the worker to be employed as contract labour, in respect of which the application for license has been made, shall be deposited as security deposit by the contractor for performance of the conditions of the license and compliance with the provisions of the Code or the rules made thereunder.
- (2) Wherein the issued contract license had expired, based on the request of the applicant, the Licensing Officer may adjust the security deposit in respect of his application for new license to be issued in **Form-XIV**.
- (3) The fees to be paid for the grant of a license shall be as specified in the table below, namely :—

(a)	No license is required up to 49 contract labour	Nil
(b)	50 but does not exceed 100 contract labour	Rs.700.00
(c)	101 But does not exceed 200 contract labour	Rs.1000.00
(d)	201 but does not exceed 500 contract labour	Rs.3000.00
(e)	501 and above contract labour	Rs.5000.00

Renewal of
license under
sub-section (3)
of section 48

34. (1) Every contractor shall apply electronically on the Official Portal of Labour Welfare Department Government of Assam to the licensing authority for renewal of the license.
- (2) Every such application shall be submitted on the said portal at least 30 days prior to expiry of license period but not before 90 days of such expiry of license.
- (3) The security deposit and the fee chargeable for renewal of the license shall be the same as for the grant of license under sub-rule (3) of rule 33:
- Provided that if the application for renewal is not received within the time specified in sub-rule (2) above, an additional fee of twenty five per cent, shall be payable for such renewal.
- (4) Every application for renewal, complete in all respects, shall be made on the portal of the Labour Welfare Department, Government of Assam. The renewal certificate shall be auto generated and the same may be downloaded by the applicant from the portal.

Responsibility
of the contractor
under sub-
section (4) of
section 48

35. (1) The rates of wages payable to the workers by the contractor shall not be less than the rates prescribed under the Code on Wages, 2020 and where the rates have been fixed by agreement, settlement or award, not less than the rates of minimum wages fixed by the Government of Assam.
- (2) In case where the worker employed by the contractor perform the same or similar kind of work as the worker directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and other conditions of service of the workers of the contractor shall be the same as applicable to the workers directly employed by the principal employer of the establishment on the same or similar kind of work. In case of any dispute whether the work is of similar kind, the matter be referred to the Inspector-cum-Facilitator whose decision shall be final.
- (3) In other cases the wage rates, holidays, hours of work and conditions of service of the workers of the contractor shall be such as specified under the Code and rules made thereunder.

- (4) All contract labour shall be made member of Employees' Provident Fund Organisation (EPFO) and Employees' State Insurance Corporation (ESIC) subject to applicability as under respective provisions of the Code on Social Security, 2020.
- (5) The contractor shall notify any change in the number of workers or conditions of work to the Licensing Authority, electronically.
- Intimation of work order and time limit under sub-section (1) of section 50
36. (1) Every contractor shall within fifteen days of the receipt of a contract work order shall intimate about the contract work order containing the details such as the name of the principal employer, address of the premises where work is being undertaken, date of commencement of the contract work, the number of contract labour employed under that work order, duration of work orders.
- (2) The details of work order shall be sent by the contractor or his authorized representative.
- (3) The intimation shall be sent electronically on the Official Portal of Labour Welfare Department, Government of Assam and e-mail of the Labour Commissioner, Assam and the Licensing Authority concerned.
- Suspending or cancelling of license under sub-section (2) of section 50
37. (1) If the Licensing Authority is satisfied that the license has been obtained by misrepresentation or suppression of any material fact or if the contractor has failed to comply with the conditions subject to which license was granted or the contractor has contravened any provision of **Part-I, Chapter-XI** of the Code or rules made thereunder, the Licensing Authority shall issue a show cause notice of 30 days to the contractor electronically or otherwise. On receipt of the reply, if any, from the contractor within 30 days, the Licensing Authority shall examine the same and in case the Licensing Authority feels that the continuation of contract business by the contractor is going to lead to grave harm to the workers, he/she may pass a Speaking Order recording the reasons for revocation or suspension or otherwise and communicate to the contractor electronically. A copy of the Order shall be endorsed to the Labour Commissioner, Assam, Deputy Labour Commissioner/ Assistant Labour Commissioner having jurisdiction and the principal employer.
- (2) If the contractor has complied with the said provisions of the Code and rules made thereunder within the stipulated time period, the Licensing Authority shall revoke the suspension giving a Speaking Order or else the suspension may be continued.
- (3) If the contractor fails to comply with the directions as in sub-rule (1) above, the Licensing Authority may forthwith pass an order of revocation of license, recording the reasons thereof and communicate to the contractor electronically or otherwise. The copy of the order shall be endorsed electronically or otherwise to Labour Commissioner, Assam, Deputy Labour Commissioner/Assistant Labour Commissioner having jurisdiction and to the principal employer.

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| Responsibility of payment of wages under sub-section (1) (2) of section 55 | 38. | <p>(1) The contractor shall fix the wage periods in respect of which wages shall be payable and no wage period shall exceed one month.</p> <p>(2) The wages of every person employed as contract labour in an establishment or by a contractor shall be paid before the expiry of seventh day after the last day of the wage period in respect of which the wages are payable.</p> <p>(3) Where it is not practicable to disburse payment in the mode specified under sub-section (2) of section 55, then the payment shall be made in the mode other than electronic mode as prescribed under relevant provisions of Code on Wages, 2019.</p> |
| Payment of wages from security deposit amount under sub-section (4) of section 55 | 39. | If the contractor or principal employer does not pay the wages to the contract labour employed by him, the Labour Commissioner, Assam or his representative or the competent officer as may be notified by State Government shall conduct or cause to conduct, an inquiry and after giving an opportunity to be heard to the contractor shall pass an order to make payment, if any, of such wages from the amount deposited by the contractor as security deposit and the bills of the contractor as the case may be. The contractor shall re-furnish the security deposit within a period of 30 days or else his license shall be liable to be suspended. |
| The experience certificate under section 56 | 40. | Every concerned contractor shall issue on demand, experience certificate in Form-XV to the contract labour giving details of the period, work performed, experience gained in various fields performed by such contract labour. |
| Application for core activity under clause (b) and (c) of sub-section (2) of section 57 | 41. | <p>(1) If a question arises as to whether any activity of an establishment is a core activity or otherwise, the aggrieved party shall make an application, to the Secretary to Government of Assam, Labour Welfare Department, giving reasons along with supporting documents.</p> <p>(2) The application shall contain complete details of the activity in question and manufacturing process of the establishment.</p> <p>(3) The application shall contain justification for making such application.</p> <p>(4) On receiving the application under clause (b) of sub-section (2) of section 57, the Secretary to Government of Assam, Labour Welfare Department, shall if he deem proper, refer the application to the Labour Commissioner, Assam for making such enquiry as may be required and the Labour Commissioner shall submit the report/ recommendation to the Secretary to Government of Assam, Labour Welfare Department within thirty days for taking appropriate action under these rules and the Secretary to Government of Assam, Labour Welfare Department shall decide the matter within one month from the date of receipt of such report/recommendation and communicate the said decision of the Government to the parties through electronically or otherwise for implementation of the said order of the Government.</p> |

PART-II**INTER STATE MIGRANT WORKER**

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| Journey allowance to inter state migrant worker under section 61 | 42. The employer shall pay a lump sum amount on account of fare for to and fro journey to inter-state migrant worker by train (not less than II Class Sleeper) or by bus or any other mode of passenger transport from the place of employment to the place of residence in the home state in the event if he/she has worked for a period of not less than 180 days in the concerned establishment(s) in the preceding twelve months :
Provided that the journey allowance shall be given to an inter-state migrant worker once in twelve months. In the event of change of employer by the inter-state migrant worker during the middle of the employment period and if he/she has not availed the journey allowance from his previous employer, then on the basis of a certificate to be given by inter-state migrant worker, the employer where the inter-state migrant worker is now working and such worker has completed one hundred and eighty days in preceding twelve months including the period spent with the previous employer, then the employer shall give the journey allowance. |
| Toll free helpline number under section 63 | 43. A Toll Free helpline number shall be provided by the Labour Welfare Department, Government of Assam, to address queries and grievances of the inter-state migrant workers. |
| Study of inter-state migrant workers under section 64 | 44. The State Government may identify the fields where studies are to be carried out to promote safety, health and welfare of inter-state migrant workers. Wherever required the State Government may also consult the Central Government or expert organizations involved in the safety, health and welfare of inter-state migrant workers. |

Chapter X**PART-III****Special Provision for Audio Visual Workers**

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| Agreement of Audio-visual to worker under sub-section (3) of section 66 | 45. The copy of Agreement as referred to in sub-section (1) of section 66 of the Code shall be as in Form XVI and which shall be forwarded by the Producer of the Audio-Visual programme to an Officer not below the rank of Labour Officer as the Authority under sub-section (3) of section 66 of the Code. |
| Dispute Resolution mechanism under clause (vii) of sub-section (4) of section 66 | 46. The procedure for reference of dispute to the Conciliation Officer or an Industrial Tribunal shall be in conformity with the Industrial Relations Code, 2020 and rules framed thereunder by the State Government. |

CHAPTER XI

PART-IV

Special Provision for Beedi and Cigar Workers

The application form and fees for license under sub-section (2) of section 74

47. Every application by an employer under sub-section (1) of section 74 who intends to use or allows to use any place or premises as an industrial premise, for the grant of a license shall be made online electronically through Official Portal of Labour Welfare Department, Government of Assam in **Form-XVII** to the Licensing Officer and on payment of fees as prescribed under rule 50. The Licensing Officer may issue the license to the contractor in **Form-XVIII** electronically immediately, if the application is complete in all respects but not later than seven days from the date of submission of complete application, failing which such license shall be deemed to have been issued and the license shall be auto generated :

Provided that in exceptional circumstances the State Government may, for such period, by notification, dispense with requirement of electronic registration, in respect of any class of contractors, for any part or whole of Assam, and submission of application in the form so provided, may be allowed.

Plans of place/premises under sub-section (3) of section 74

48. (1) The Government or the Chief Inspector-cum-Facilitator may require for the purposes of the Code, submission of plans of any place or premises intended to be used as an industrial premise which was either in existence on the date of the commencement of these rules or which had not been constructed or extended since such plans shall be drawn to scales showing,-
- (a) the site of the premise and immediate surrounding including adjacent buildings and other structures, roads, drains, etc. ;
 - (b) the plan, elevation and necessary cross-Sections of the premise/building indicating all relevant details relating to natural lighting, ventilation and means of escape in case of fire ;
 - (c) no addition/alteration or extension in the existing premise/building shall be made unless plans in respect of such additions, alterations or extensions are approved by the Chief Inspector-cum-Facilitator;
 - (d) the internal height of a workroom shall be not less than 4.25 m measured from the floor level to the lowest part of the roof and if the roof is of corrugated iron which is neither covered with tiles nor has an inner ceiling of lining of heat resisting material with an air space of at least 10 cm. Between it and the corrugated iron, the internal height shall be not less than 5 m ;
 - (e) building having a brick or concrete roof, or a combination of the two, the minimum height may be 3.75m ;

(f) and such other particulars as the Government or the Chief Inspector-cum-Facilitator, as the case may be, may require.

- (2) If the Inspector-cum-Facilitator is satisfied that the plans and documents are in consonance with the requirements of the rules, he/she shall forward the plans and documents to the Chief Inspector-cum-Facilitator for approval. The Chief Inspector-cum-Facilitator after being similarly satisfied shall approve the plans :

Provided that where the plans and documents fall short of the requirements of these rules, the Inspector-cum-Facilitator or the Chief Inspector-cum-Facilitator as the case may be, may return the documents to the applicant for modifications and corrections as suggested therein :

Provided further that the plans shall not be deemed to have been submitted till such time as they are re-submitted duly modified and amended.

Renewal of license under the second proviso to sub-section (6) of section 74

49. (1) Every application for renewal of license, complete in all respects, shall be made on the portal of the Labour Welfare Department and shall be made not less than sixty days before the date on which the license expires. The application shall be accompanied by the following documents, namely:-
- the license sought to be renewed;
 - the cyber treasury challan showing that the appropriate fee for renewal of the license specified in the Official Gazette has been paid.

- (2) If the application is complete in all respects, the renewal certificate shall be auto generated in **Form-XVIII** and the same may be downloaded by the applicant from the portal :

Provided that if the application for renewal, complete in all respects, is not received within the time specified above, the license shall be renewed only on payment of a fee of twenty five per cent in excess of the fees ordinarily payable for the renewal of the license.

Fees for renewal

50. (1) The fees for grant of license shall be the same as for renewal of license for one year and shall be as specified in the Schedules mentioned below:-

(a)	No license is required up to 49 contract labour	Nil
(b)	50 but does not exceed 100 contract labour	Rs. 1500.00
(c)	Exceeds 100	Rs. 2000.00

- (2) The fees payable under these rule shall be credited in Government treasury under State Head of account notified in this regard.

Appeal under section 75

51. A person aggrieved by the decision of the authority referred to in sub-section (1) of section 119 shall make an appeal as per section 75 of the Act to the Appellate Authority for grant/renew of a license with an application accompanied with a rejection order of the Registering Authority and on payment of a fee receipt of Rs 1000/- to be deposited in the official account of the Appellate Authority with a time period of thirty days of the passing of the Rejection Order.

Conditions to work outside the industrial premises under sub-section (1) and (2) of section 76

52. (1) The employer shall apply to the Chief Inspector- cum- Facilitator electronically through the Government of Assam Portal to permit the wetting and cutting of beedi or tobacco leaves by employees outside the industrial premises subject to the following conditions:-
- (a) The health safety measures of the employee outside the premises are ensured.
 - (b) No child as defined under the Child and Adolescent labour (P and R) Act, 1986, are engaged even outside the premises.
 - (c) The employee is paid minimum wages as fixed by the State Government under the Code on Wages, 2019.
- (2) The Chief Inspector cum Facilitator shall forward the application with his comment within a period of seven days to State Government and State Government shall decide on the application within a period of 30(thirty) days. The permission shall be granted only for such period as specified in the order granting permission. Every employer shall maintain record of work permitted to be carried on outside the Industrial premises in **Form XIX**.

CHAPTER XII

FACTORY

Application for factory license under sub-section (1) of section 79 under sub-section (2) of section 79

53. (1) No site shall be used for the location of a factory or no building in a factory be constructed/extended or taken into use as a factory and no additional machinery be installed or no prime movers exceeding the horsepower already installed in a factory be installed unless previous permission in writing is obtained from the Chief Inspector-cum-Facilitator for the establishments that are factories.
- (2) Application for such permission shall be made in **Form no-XX** to the Chief Inspector-cum-Facilitator, Assam electronically in the manner as required under section 9 of the Assam Ease of Doing Business Act, 2016. All such applications shall be accompanied by the following documents,-
- (i) a flow chart of the manufacturing process in its various stages;
 - (ii) plans in triplicate drawn to scale showing-
 - (a) the site of the factory and immediate surroundings including adjacent building and other structures, roads, drains, etc., drawn to scale not less than 1cm= 20 meters or drawn to a lower scale with the permission of Chief Inspector-cum-Facilitator; and
 - (b) the plans, elevation and necessary cross-Sections of the various building, indicating all relevant details relating to natural lighting, ventilation and means of escape in case of fire. The plans shall also clearly indicate the position of the plant and machinery, aisles and passage ways, and shall be drawn to a scale not less than 1cm = 10 meters or

drawn to suitable scale with the permission of Chief Inspector-cum-Facilitator;

- (iii) such other documents as the Chief Inspector-cum-Facilitator may require; and
 - (iv) in case of factory involving hazardous process covered under clause (za) sub-section (1) of section 2, the detailed policy with respect to the health and safety of the workers employed therein and other particulars shall be submitted electronically as specified in sub-section (2) of section 84 of the Code.
- (3) If the Chief Inspector-cum-Facilitator is satisfied that the plans are in consonance with the requirements of the Code, he/she subject to such condition as he/she may specify, approve them within period specified in the table given below by signing and returning to the applicant one copy of each, or he/she may call for such other particulars as he/she may require to enable such approval to be given.

Table showing Time Line for approval of Plan

Sl. No.	Category of Factories	Time limit from the date of receipt of completed application
1	Factories as defined under Section 2(1)(w)(ii) of the Code and not involving hazardous process as defined under Section 2(1)(za) of the Code	10(Ten) days
2	Factories other than hazardous and Major Accident Hazardous installations	30(Thirty) days
3	Factories involving Hazardous process and Major Accident Hazards installations	45(Forty five) days (30 days for the appraisal of site by the appraisal committee, 10 days for approval from the Government and 5 days for approval of plans by the Chief Inspector-cum-Facilitator)

- (4) **Certificate of stability** — No manufacturing process shall be carried on in any building of a factory constructed, reconstructed or extended or in any building which has been taken into use as factory or part of a factory until a certificate of stability in respect of that building in the **Form No. XXI** has been sent by the occupier or Manager of the factory to the Chief Inspector and accepted by him.
- (5) Notice of occupation of a factory and application for its registration and grant or renewal of license-
- (i) The occupier of every factory coming within the scope of the Code, after its commencement shall submit to the Chief Inspector-cum-Facilitator, Assam a notice of occupation and application in **Form No-XIII** as per the provision of the section

9 of the Assam Ease of Doing Business Act, 2016 for the registration of the factory and grant of license thereof for a period as specified in clause (i) sub-rule 6 of rule 53. Every application made under this sub-rule shall be accompanied with proof of payment specified in sub-rule (2) above:

Provided that the Occupier of a place to which the provisions of the Code are made applicable by the notification under section 81(1) shall submit an application within 30 days of the date of the notification.

- (ii) Every such application shall be accompanied by an online payment certificate as approved by the State Government for payment of the fee as specified in the **Schedule I, II or III**.
- (iii) All factories declared under section 81 of the Code shall pay an application fee of Rs 3000/- in online mode.

(6) Grant of license-

- (i) The Chief Inspector-cum-Facilitator may, on application being made to him under sub-rule (1) of rule 53 and on payment of fees prescribed in sub-rule (2) of the said rule and on being satisfied that there is no objection to the grant of license applied, register the factory and grant a license for a maximum period of 10 years within the time period as shown in the table below in **Form No. XIV** to the applicant to use as a factory such premises as are specified in the application and subject to compliance with such conditions as are specified in the license:

Provided that subject to the provision of sub-section (3) of section 79 of the Code, the Chief Inspector-cum-Facilitator may refuse to register the factory and grant of a license, if he is satisfied,-

- (a) That the factory has not been constructed in accordance with the plans approved by the Chief Inspector-cum-Facilitator or in non-compliance with the conditions subject to which the plans were approved;
- (b) That there is imminent danger to life in the factory due to explosive material or inflammable or toxic dust, gas or fumes, and no effective measures, in his opinion has been taken to remove the danger.

Table showing Time limit for grant of license:-

Sl. No.	Category of Factories	Time limit from the date of receipt of completed application
1	Factories as defined under Section 2(1)(w)(ii) of the Code and not involving hazardous process as defined under Section 2(1)(za) of the Code.	10(Ten) days

2	Factories other than hazardous and Major Accident Hazardous installations	30(Thirty) days
3	Factories involving Hazardous process and Major Accident Hazardous installations	45(Forty five) days (30 days) for the appraisal of site by the site appraisal committee, 10 days for approval from the Government and 5 days for approval of plans by the Chief Inspector Inspector-cum-Facilitator.

- (ii) Every license granted or renewed under these provisions shall remain in force up to the 31st December of the year/years for which the license is granted or renewed.

(7) **Amendment of license-**

- (1) A license granted under the rule 53(6)(i) or renewed under rule 53(8)(ii) may be amended by the Chief Inspector-cum-Facilitator within the period specified in the table given below:-

Sl. No.	Category of Factories	Time limit from the date of receipt of completed application
1	For all category of factories	15 (Fifteen) days.

- (2) A licensee shall be required to have the license amended if there is change in name of the factory, or if the factory for which the license is granted exceeds the limits specified in the license in regard to horsepower or the number of persons employed.
- (3) A licensee who desires to have his license amended shall submit it to the Chief Inspector-cum-Facilitator with an application in **Form no XIII** stating the nature of the amendment and reasons thereof
- (4) The fees for the amendment of a license shall be Rs. 1000/- (Rupees One Thousand) and the amount, if any, by which the fee that would have been payable if the license had originally been issued in the amended form exceeds the fee originally paid for the license.
- (5) In case of any administrative or processing error on the part of the Licensing Authority, no amendment fees shall be levied.

(8) Renewal of License-

(i) An application for the renewal of license shall be made to the Chief inspector-cum-Facilitator in **Form No XIII** accompanied by an online payment certificate as approved by the State Government, as the case may be, for payment of the fees specified in the **Schedule I, II or III** of these rules, so as to reach him on or before 30 days of the date of expiry of the license.

(ii) On receipt of the application under sub-rule (1), the Chief Inspector -cum-Facilitator may, if he is satisfied that there is no objection to the renewal of the license, renew the same for a maximum period of 10 (ten) years within the time line as shown in the table below may after recording his reasons, in accordance to the applicability of rejection clause provided in the sub-rule (1) of rule 53(5)(i), refuse the renewal of license applied:

Provided that if the period for which the license is applied for is one year or more but does not exceed 10 years, the fees payable per year shall be at the rates specified in the **Schedule I, II or III** of these rules:

Provided further that where the application for renewal of the license is made after the expiry of the due date specified in sub-rule (1) it may be renewed on payment of an additional fee of 25 percent of the fee payable for the renewal of the license subject to the minimum of Rupees Five hundred.

Sl. No.	Category of Factories	Time limit from the date of receipt of completed application
1	For all category of factories	30 (Thirty) days.

(3) Every license renewed under this rule shall remain in force up to 31st December of the year for which the license is renewed.

(9) Transfer of license-

(1) The holder of the license may at any time before the expiry of the license, apply for permission to transfer his license to another person.

(2) Such application shall be made in **Form No XIII** to the Chief Inspector-cum-Facilitator, who subject to his satisfaction for approval of the proposed transfer, enter upon the license under his signature and an endorsement to the effect that to the person proposed by the applicant.

(3) A fee equal to the license fee subject to a maximum of Rs 10000/- shall be charged on each such application.

(10) Mode of payment of fees-

- (1) (a) Every application under these rules shall be accompanied by an online payment certificate as approved by the State Government, for the appropriate amount of fees, if any.
- (b) No payment of fee under these rules made through off-line mode including Treasury challan shall be accepted or entertained.
- (c) Every payment of fee under these rules shall be made through online mode as approved by the State Government.
- (2) If application for grant, renewal or amendment or transfer of a license is rejected, the fees paid shall be refunded to the applicant by the Government.
- (3) Where such application is granted, any amount paid by the applicant in excess of the prescribed fee may be adjusted against the payment of any fees due for the next succeeding year.

Liability of
owner for
premises under
section 80

54. (1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting, fire protection and prevention and sanitation.
- (2) The Chief Inspector-cum-Facilitator shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-rule (1) above.
- (3) Where in any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Code in respect of,—
 - (i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;
 - (ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;
 - (iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;
 - (iv) precautions in case of fire;
 - (v) maintenance of hoists and lifts; and

- (vi) maintenance of any other common facilities provided in the premises.
- (4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-rule (3) above.
- (5) The provisions of sub-rule (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:
 Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.
- (6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-rule (5) in respect of the carrying out of the provisions of the rules relating to shelters, rest rooms, lunch room or creches.
- (7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of,—
- (a) Health
 - (b) Safety
 - (c) Washing facility
- (8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-rule (7) above.
- (9) In respect of sub-rules (5) and (7), while computing, for the purposes of any of the provisions of this Code, the total number of workers employed, the whole of the premises shall be deemed to be a single factory.
55. (1) The operations when carried on in any factory which are declared to be dangerous operations under section 82 of the Code may be seen at **Schedule VI**.
 The dangerous operations mentioned in Schedule VI have been elaborated in details in **Schedule VI(A) to Schedule VI(Y)**.
- (2) The provisions specified in the **Schedules** hereto shall apply to any class or description of factories wherein dangerous operations specified in each **Schedule** are carried out.
- (3) These rules shall come into force in respect of any class or description of factories, wherein the said operations are carried on, on such dates as the State Government may by notification in the official Gazette appoint in this behalf.

Dangerous
operations
declared under
section 82

- (4) (a) For medical examinations of workers to be carried out by the Medical officers for the purposes of the Code in relation to factory as required by the schedules annexed to this rule, the occupier of the factory shall pay fees at the rate of Rs. 100.00 per examination of each worker every time he is examined.
- (b) The fees prescribed in sub-rule (4) clause (a) shall be exclusive of any charges for biological, radiological or other tests which may have to be carried out in connection with the medical examination. Such charges shall be paid by the occupier.
- (c) The fees to be paid for medical examinations shall be paid online as approved by the State Government.
- (5) Employment of pregnant woman shall be strictly prohibited in any factory wherein any dangerous operation is carried on.

Purpose of Site Appraisal Committee under sub-section (1) and (2) of section 83

- 56. (1) The State Government shall constitute one or more Site Appraisal Committee as per sub-section (1) section 83 of the Code consisting of a Chairman and other Members for the purposes of considering and to give recommendations on an application for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of such factory.
- (2) Applications for appraisal of sites —
 - (a) Applications for appraisal of sites in respect of the factories covered under section 2(z) of the Code or for their expansion shall be submitted to the Chairman of this Site Appraisal Committee;
 - (b) The application for site appraisal along with 15 copies thereof shall be submitted in the **Form XXII** annexed to these rules. The Committee may dispense with furnishing information on any particular item in the Application Form if it considers the same to be not relevant to the application under consideration.
- (3) **Functions of the Committee —**
 - (a) The Secretary shall arrange to register the applications received for appraisal of site in a separate register and acknowledge the same within a period of 7 days;
 - (b) The Secretary shall fix up meeting in such a manner that all the applications received and registered are referred to the committee and making recommendations thereon by the committee within a period of one month from the date of their receipt;
 - (c) The Committee may adopt a procedure for its working keeping in view the need for expeditious disposal applications;

- (d) The Committee shall examine the application for appraisal of a site with reference to the prohibitions and restrictions on the location of industry and the carrying on of processes and operations in different areas as per the provisions of rule 5 of the Environment (Protection) Act, 1986;
- (e) The Committee may call for documents, examine, experts, inspect the site if necessary and take other steps for formulating its views in regard to the suitability of the site;
- (f) Wherever the proposed site requires clearance by the Ministry of Industry or the Ministry of Environment and Forests the application for Site Appraisal shall be considered by the Site Appraisal Committee only after such clearance has been received.

Compulsory
Disclosure of
information by
Occupier of a
factory under
sub-section (1)
of section 84

57. (1) The occupier of every factory carrying on a 'hazardous process' shall arrange, to obtain or develop information in the form of Material Safety Data Sheet (MSDS) in respect of every hazardous substance or material handled in the manufacture, transportation and storage in the factory. It shall be accessible upon request to a worker for reference —
- (a) every such Material Safety Data Sheet shall include the following information—
 - (i) the identity used on the label;
 - (ii) hazardous ingredients of the substance;
 - (iii) physical and chemical characteristics of the hazardous substance;
 - (iv) the Physical hazards of the hazardous substances, including the potential for fire, explosion and reactivity;
 - (v) the health hazards of the hazardous substances, including signs and symptoms of exposure, and any medical conditions which are generally recognised as being aggravated by exposure to the substance;
 - (vi) the primary route(s) of entry;
 - (vii) the permissible limits of exposure prescribed in the **Schedule** under section 88 of the Code, and in respect of a Chemical not covered by the said Schedule, any exposure limit used or recommended by the manufacturer, importer or occupier;
 - (viii) any generally applicable precautions for safe handling and use of the hazardous substance, which are known, including appropriate hygienic practices, protective

measures during repairs and maintenance of contaminated equipment, procedures for clean-up of spills and leaks;

- (ix) any generally applicable control measures, such as appropriate engineering, controls, work practices, or use of personal protective equipment;
 - (x) emergency and first-aid procedure;
 - (xi) the date of preparation of the Material Safety Data Sheet, or the last change to it; and
 - (xii) the name, address and telephone number of the manufacturer, importer, occupier or other responsible party preparing or distributing the Material Safety Data Sheet, who can provide additional information on the hazardous substance and appropriate emergency procedures, if necessary.
- (b) the occupier while obtaining or developing a Material Safety Data Sheet in respect of a hazardous substance shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If he becomes newly aware of any significant information regarding the hazards of a substance, or ways to protect, against the hazards, this new information shall be added to the Material Safety Data Sheet as soon as practicable;
- (c) an example of such Material Safety Data Sheet is given in the **Schedule VII** to this rule.

Labelling-

- (2) Every container of a hazardous substance shall be clearly labelled or marked to identify—
- (a) the contents of the container;
 - (b) the name and address of the manufacturer or importer of the hazardous substance;
 - (c) the physical and health hazards; and
 - (d) the recommended personal protective equipment needed to work safely with the hazardous substance.

Health and
Safety Policy
under sub-
section (2) of
section 84

58. (1) Occupier of every factory except as provided for in sub-rule (2), shall prepare a written statement of his policy in respect of health and safety of workers at work.
- (2) All factories,—

- (a) covered under section 2(w) (i) of the Code but employing less than 50 workers;
 - (b) covered under section 2(w) (ii) of the Code but employing less than 100 workers; are exempted from requirements of clause (i) :
Provided that they are not covered in the First Schedule under section 2(za) or carrying out processes or operations declared to be dangerous under section 82 of the Code.
- (3) Notwithstanding anything contained in rule (2), the Chief Inspector-cum-Facilitator may require the occupiers of any of the factories or class or description of factories to comply with the requirements of sub-rule (1), if, in his opinion, it is expedient to do so.
- (4) The Health and Safety Policy should contain or deal with,—
- (a) declared intention and commitment of the management to health, safety and environment and compliance with all the relevant statutory requirements;
 - (b) organisational set up to carry out the declared policy clearly assigning the responsibility at different levels; and
 - (c) arrangements for making the policy effective.
- (5) In particular, the policy should specify the following,—
- (a) arrangements for involving the workers;
 - (b) intentions of taking into account the health and safety performance of individuals at different levels while considering their career advancement;
 - (c) fixing the responsibility of the contractors, sub-contractors, transporters and other agencies entering the premises;
 - (d) providing a resume of health and safety performance of the factory in its Annual Reports;
 - (e) relevant techniques and methods, such as safety audits, risk assessment, for periodical assessment of the status on health, safety and environment and taking all the remedial measures;
 - (f) stating its intentions to integrate health and safety in all decisions including those dealing with purchase of plant, equipment, machinery, materials as well as selection and placement of personnel;
 - (g) arrangements for informing educating and training and retraining its own employee at different levels and the public, wherever required.

- (6) A copy of the declared Health and Safety Policy signed by the occupier shall be made available to the Inspector-cum-Facilitator-cum-Facilitator having jurisdiction over the factory and to the Chief Inspector-cum-Facilitator and the local authority concerned.
- (7) The policy shall be made widely known by,—
 - (a) making copies available to all workers including contract workers, apprentices, transport workers, supplier, etc.;
 - (b) displaying copies of the policy at conspicuous places; and
 - (c) any other means of communication; in a language understood by majority of workers.
- (8) The occupier shall revise the Safety Policy as often as may be appropriate, but it shall necessarily be revised under the following circumstances,—
 - (a) Whenever expansion or modification having implications on safety and health of persons at work is made; or
 - (b) Whenever new substance(s) or articles are introduced in the manufacturing process having implications on health and safety of persons exposed to such substances.

Form and manner of information of hazardous process under sub-section (5) of section 84

59. Every occupier of a factory shall, if such factory proposes to engage in a hazardous process at any time after the commencement of the Code, within a period of thirty days before the commencement of such process, inform the Chief Inspector-cum-Facilitator about the nature and details of the process electronically comprising all information as specified in **Schedule 7**.

Disposal and handling of hazardous substance under sub-section (7) of section 84

60. Measures laid down for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises should be publicized among the workers and the general public living in the vicinity through booklet, hoardings located at all relevant places including at the main entrance of the factory.

Health record accessible to workers under clause (a) of section 85

61. (1) The occupier of every factory carrying out 'hazardous process' shall make accessible the health records including the records of worker's exposure to hazardous process or' as the case may be, the medical records of any worker for his perusal under the following conditions —
- (a) Once in every six months or immediately after the medical examination whichever is earlier;

- (b) If the Factory Medical Officer or the Medical officer as the case may be, is of the opinion that the workers has manifested signs and symptoms of any notifiable disease as specified in the Third Schedule of the Code;
- (c) If the workers leaves the employment;
- (d) If any one of the following authorities so direct.
 - (i) the Chief Inspector -cum-Facilitators;
 - (ii) the Health Authority of the Central or State Government;
 - (iii) Commissioner of Workmen's Compensation;
 - (iv) The Director General, Employee's State Insurance Corporation;
 - (v) The Director, Employees State Insurance Corporation (Medical Benefits); and
 - (vi) The Director General, Factory Advice Service and Labour Institute.
- (2) A copy of the up-to-date health records including the record or worker's exposure to hazardous process or as the case may be, the medical records shall be supplied to the worker on receipt of an application from him X-ray plates and other medical diagnostic reports may also be made available for reference to his medical practitioner.

Qualifications,
and experience
for handling
hazardous
substances
under clause (b)
of section 85

- 62. (i) All persons who are required to supervise the handling of hazardous substances shall possess the following qualifications and experience —
 - (a) a degree in Chemistry or Diploma in Chemical Engineering or Technology with 5 years experience; or a Master's Degree in Chemistry or a Degree in Chemical Engineering or Technology with 2 years experience.
 - (b) The experience stipulated above shall be in process operation and maintenance in the Chemical Industry.
 - (c) the Chief Inspector-cum-Facilitator may require the supervisor to undergo training in Health and Safety.
- (ii) The syllabus and duration of the above training and the organisations conducting the training shall be approved by the Director General Factory Advice Service and Labour Institutes(DGFASLI) or the State Government in accordance with the guidelines issued by the Director General Factory Advice Service and Labour Institutes(DGFASLI) .

Medical examination of a worker under sub clause (ii) of clause (c) of section 85

63. (1) **Medical Examination —**

- (i) Workers employed in a “Hazardous Process” shall be medically examined by a qualified medical practitioner hereinafter referred to as **Factory Medical Officer**, in the following manner,—
 - (a) Once before employment to ascertain physical fitness of the person to do the particular job.
 - (b) once in a period of 3 months, to ascertain the health status of all the worker in respect of occupational health hazards to which they are exposed; Medical examination shall also be conducted for the workers who quit employment or dismissed by the occupier for a period of two years from such quit or dismissal as the case may be. In the event of diagnosis of any occupational disease related to the process carried on in the factory wherein the worker was working, the occupier of such factory shall be liable to provide medical facilities as per law.
Explanation: To ensure the health safety of those workers who are retrenched frequently by the occupiers before they develop signs and symptoms of occupational diseases during their employment period.
 - (c) the details of pre-employment and periodical medical examinations carried out as aforesaid shall be recorded in the Health Register in **Form XXIII**.
 - (d) The occupier of every factory manufacturing Asbestos or its ancillary products shall maintain and keep maintaining Health Record of every worker in Prescribed **Form XXIII** up to a minimum period of 40 years from the beginning of employment or 15 years after retirement or cessation of employment whichever is later;
- (ii) No person shall be employed for the first time without a certificate of Fitness in **Form XXIV** granted by the Factory Medical Officer. If the Factory Medical Officer declares a person unfit for being employed in any process covered under clause (i), such a person shall have the right to appeal to the Inspector-cum-Facilitator who shall refer the matter to the **Medical officer** whose opinion shall be final in this regard. If the Inspector-cum-Facilitator himself is also a **Medical officer**, he/she may dispose of the application himself.
- (iii) Any findings of the Factory Medical Officer revealing any abnormality or unsuitability of any person employed in the process shall immediately be reported to the **Medical officer** who shall in turn, examine the concerned worker and communicate his findings to the occupier within 30 days. If the **Medical officer** is of the opinion that the worker so examined is required to be taken away from the process for health protection,